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ABSTRACT

Based on a survey of State education agencies (SEAs), this study gathered quantitative and qualitative information about the roles SEAs assume in teacher collective negotiations at the State and district levels. Variations in State laws and in SEA role responsibilities created research problems. The results indicate that SEAs most frequently assume an informational role, but that they also have some involvement in policy development and in advising. Only a few SEAs perform regulatory or administrative roles. SEA involvement increases as the State laws become more complex. The study concludes that SEAs are significant actors in teacher collective negotiations and that they play a role even when another State agency has specific authority to administer the negotiations laws. (Author/DW)

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STATE EDUCATION AGENCY ROLES

IN

TEACHER COLLECTIVE NEGOTIATIONS

Jon M. Peterson

Project Coordinator

Illinois Office of Education

EA 006 930

Paper Presented to
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Illinois Office of Education

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STATE EDUCATION AGENCY ROLES IN TEACHER COLLECTIVE NEGOTIATIONS

Jon Peterson

Abstract

This study is based on a survey of State Education Agencies (SEAs) in an attempt to gather quantitative and qualitative information about the roles SEAs assume in teacher collective negotiations at the state level and at the district level. The subject of teacher collective negotiations, or collective bargaining, is of current interest, combining at once such disparate sensitive issues as: the organization of public sector employees; questions of residual management responsibilities and rights; the total amount of publically derived revenues allocated to teachers' salaries; and the right of any employee group to achieve some sort of comparable power relationship with management. From such interests, and from the desire to find out what roles other SEAs are assuming, a cooperative group of SEAs - Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin- requested the Illinois Office of the Superintendent of Public Instruction to conduct a survey that would give information on the roles, if any, played by SEAs in the area of teacher collective negotiations.

Preliminary investigations indicated two problem areas. The first was the large variation among states in the laws covering teacher collective negotiations. This implied that roles assumed by SEAs might differ according to the legal status of teacher collective negotiations. The other problem area was the existence in some states of other state-level agencies specifically designated to administer laws relating to teacher collective negotiations. The activities of these agencies, public employment relations boards (PERBs) or similar commissions, might also affect the roles SEAs perform.

In order to deal with these preliminary questions, as well as the major SEA roles questions, a survey instrument was designed, field tested and revised, and sent to 51 SEAs (including District of Columbia), and to the other state-level agencies that were known, or whose identity was indicated by SEA responses. The survey attempted to obtain information about:

1. state legal provisions regarding teacher collective negotiations; and

2. state agency (SEA and other) roles in teacher collective negotiations.

Part of the survey consisted of an abstract of state legal provisions taken from Summary of State Policy Regulations for Public Sector Labor Relations, U.S. Department of Labor, Division of Public Employee Labor Relations, February 1973. Respondents were asked to verify the abstract data or to indicate recent changes in specific provisions. The other part of the survey was a questionnaire listing 29 specific role activities and asking for a "Yes" or "No" response. The specific activities were grouped into seven role categories: administrative, direct involvement, informational, regulatory, policy development, advisement, and communication.

A total of 52 agencies from 26 states and the District of Columbia responded, either directly or to a telephone follow-up. Results of the survey indicated substantial variations among state's legal provisions for teacher collective negotiations. Using bargaining rights of teachers as the major variable, it is possible to group states into one of five clusters ranging from "no legal provision" for bargaining rights, through "meet and confer" and "permissive" rights to groups of states with full bargaining rights mandated by statute and with provision for a state administrative agency.

Responses to the SEA role questions indicated the role most frequently assumed was "informational", with considerable role assumptions in "direct involvement","policy development", and "advisement" activities. Only a few SEAs performed "administrative", and "regulatory" roles. SEAs assumed some roles in states which had no legal provisions for teacher collective negotiations; a greater variety of roles as legal provisions became more complex, and were quite active even in states that established other agencies specifically to administer teacher collective negotiations laws.

The conclusion of this study is that SEAs are "significant actors" in the teacher collective negotiations arena; in general policy development and administration and in specific local situations; in the absence of permissive legal provisions and even in the presence of other, specifically charged agencies.

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State Education Agency Roles In Teacher Collective Negotiations[1]

Introduction

Interest in teacher collective negotiations stems from several vantage points: achieving greater equity in the relationships between management and labor, the perceived differences between public and private sector labor relations, potential disruption of vital teaching/learning processes, and legal restraints on levels of public expenditures for public schools. The interest or concern that led to this study was the desire to obtain data on the roles played by state education agencies (SEAs) in teacher collective negotiations.

A group of cooperative SEAs, Illinois, Indiana, Ohio, Michigan, Minnesota and Wisconsin, acting through the Upper Midwest Regional Interstate Project, engaged the Research Section of the Illinois Office of the Superintendent of Public Instruction to conduct such a study, funding it with a Section 505, Title V ESEA, grant.

Preliminary investigations indicated two problem areas that were ancillary to the major question. The first involved variations in the legal status of teacher collective negotiations among the states. SEA roles might vary considerably from a state that had no legal provisions for teacher collective negotiations to a state that had an elaborate set of legal provisions defining activities and relationships. The other problem area is the existence of state agencies other than SEAs which have been specifically

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[1] "Teacher collective negotiations" as used here is a blanket term for all activity governing teacher-board relationships. It is partly the public sector equivalent of collective bargaining and includes activities of that label. It also includes such activities in this area as "meet and confer" and other activities for which the term collective bargaining elicits disfunctional reactions.

created to administer teacher collective negotiations laws. The presence of such other agencies in some states might have an impact on the roles played by SEAs.

Recognizing these ancillary problems as well as the major question, a survey instrument was designed, field tested and revised, and sent to 51 SEAs (including the District of Columbia) and to state public employment boards or commissions that were known or were identified by SEA responses. The purpose of the survey was to obtain information on:

1. legal provisions of teacher collective negotiations; and
2. roles of SEAs and other state agencies in the teacher collective negotiations area.

A total of 52 agencies of 63 responded, a response rate of 83%.[2] Appendix I is a copy of the survey instrument.

The first part of the report is concerned with the legal status of teacher collective negotiations. Presented here are state legal provisions on bargaining rights, administrative agencies, impasse and grievance procedures, and strike provisions. A grouping, or clustering, of states on the basis of legal provisions is suggested.

The second part deals with the roles performed by SEAs in administrative, direct involvement, informational, regulatory, policy development, advisement, and communications activities in teacher collective negotiations. Similar roles performed by other state agencies are also considered to determine their impact on SEA roles.

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[2] It came to the author's attention that some SEA recipients, feeling they had no legal role in teacher collective negotiations, passed their copy of the survey on to some state agency that did have legal roles.

The third part contains the findings and conclusions of the study. Attachment I is a memo written by a long-term participant in SEA involvement in teacher collective negotiations and is included to more dynamically describe SEA activities and to point out possible emerging roles for SEAs in the area of teacher collective negotiations.

Part I

Legal Status of Teacher Collective Negotiations

One of the significant factors that might affect SEA roles in teacher collective negotiations is the legal status of teacher collective negotiations in the various states. The U.S. Department of Labor publication, Summary of State Policy Regulations for Public Sector Labor Relations, February 1973 sets forth legal provisions for public employees, including teachers. An abstract of legal provisions for each state was compiled from this booklet and sent to each respondent for verification or updating, if necessary. The legal status of teacher collective negotiations in the states, as indicated by the responses to the abstracts, is presented in Table 1 and are summarized below. Forty-six states responded to this portion of the survey.

Strike Policy

The most frequently reported legal provision was the prohibition against teacher strikes. Of the 35 states that prohibit teacher strikes, 30 prohibit strikes under any circumstance, while five allow strikes or work stoppages on a limited basis. The latter group relies on courts to issue injunctions when a perceived danger to health, safety, or the public welfare arises.

Bargaining Rights

The responses to legal provisions for bargaining rights attempts to measure the extent to which local school boards are required to bargain

Table 1

Basic Legal Provisions for Teacher Collective Bargaining in State Law*

State / Categories**	Bargaining Rights 1	Teacher Treated 2	Administrative Agency 3	Impasse Procedures 4	Grievance Procedures 5	Strikes 6
Alabama	N/P	N/A	N/P	N/P	N/P	Prohibited
Alaska						
Arizona	N/P	N/A	N/P	N/P	N/P	N/P
Arkansas						
California	Required to meet and confer	Separate	N/P	included in the agreement, if not triparty committee reports its findings at a public meeting of the parties non-binding recommendation.	N/P	N/P
Colorado	N/P	N/A	N/P	N/P	N/P	N/P
Connecticut	Required	Separate	State and Local Board of Education	Mediation by State Board of Education	N/P	Prohibited
Delaware	Required	Separate	Local Boards	Either party may request mediation by any method agreed upon; either party may request fact-finding with recommendations	N/P	Prohibited
District of Columbia	N/P	N/A	N/P	N/P	N/P	Prohibited
Florida	Required	N/A	N/P	N/P	N/P	Prohibited
Georgia						
Hawaii	Required	Same	(PERB) Hawaii Public Employment Relations Board	PERB appoints mediation fact-finding boards with recommenations made public: parties may agree to binding arbitration	May negotiate	limited right to strike on condition
Idaho	Required	Separate	N/P	Mediation followed by fact-finding with recommendations	N/P	Prohibited
Illinois	may bargain collectively	N/A	N/P	N/P	N/P	Prohibited
Indiana	May bargain collectively	Separate	Indiana Ed. Employ. Relations Board	Mediation and Fact-finding	May negotiate	Prohibited
Iowa	May bargain collectively	N/A	N/P	N/P	N/P	Prohibited
Kansas						
Kentucky	May bargain collectively	N/A	N/P	N/P	N/P	Prohibited

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Categories**	Bargaining Rights 1	Teacher Treated 2	Administrative Agency 3	Impasse Procedures 4	Grievance Procedures 5	Strikes 6
Louisiana	N/P	N/A	N/P	N/P	N/P	N/P
Maine	Required	Same	Main Public Employees Relations Board (MPERB)	Mediation upon the request of either party or ordered by the MPERB. Fact-finding upon request of either party. Arbitratration of either party to the dispute fails to bargain in good faith.	Agreement may contain a provision for binding arbitration	Prohibited
Maryland	Required	Separate	State Board of Ed.	Mediation panel appointed upon request of parties.	N/P	Prohibited
Massachusetts	Required	Same	State Labor Relations	Fact-finding with non-binding recommendations	State Board of Arbitration and conciliation available	Prohibited
Michigan	Required	Same	Michigan Employment Relations Commission	Mediation, fact-finding, voluntary binding arbitration	Mediation of grievance upon request of either party	Prohibited
Minnesota	Required	Separate	Minnesota Public Employment Relations Board and Bureau of	Bureau of Mediation certi... s binding arbitration upon request, if it determines an impasse exists.	All agreements Must contain a compulsory binding arbitration provision.	A limited right to strike, except for essential employees
Mississippi	N/P	N/A	N/P	N/P	N/P	N/P
Missouri	Right to make proposals	N/A	N/P	N/P	N/P	Prohibited
Montana	Required	Separate	Local School Boards	Senior District Judge Submitts a list of people to the parties for selection of a third member to the impasse panel.	N/P	Prohibited
Nebraska	May Meet and confer	Separate	School Boards and and Nebraska Court of Industrial Relations	Ad Hoc fact-finding Board makes non-binding recommendations	Negotiable	Prohibited
Nevada	Required	Same	State Employee Management Relations Board	Mediation by agreement of the party; fact-finding with recommendation. Governor has authority to order finding of fact and recommendation to be binding on the parties	Each school district must provide for a grievance procedure	Prohibited
New Hampshire	N/P	N/A	N/P	N/P	N/P	N/P
New Jersey	Required	Same	New Jersey Public Employment Relations Commission	Mediation upon the request and mandatory fact finding with recommendations	Must be negotiated	Prohibited
New Mexico	Required	N/A	N/P	N/P	N/P	N/P

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Categories**	Bargaining Rights 1	Teacher Treated 2	Administrative Agency 3	Impasse Procedures 4	Grievance Procedures 5	Strikes 6
New York	Required	Same	Public Employment Relations Board PERB	PERB provides mediation and fact-finding boards upon request of parties or on its own initiative; recommendations are not accepted, the legislature or committee there of conducts hearings and makes final determination.	N/P	Prohibited
North Carolina	N/P	N/A	N/P	N/P	N/P	N/P
North Dakota	Required	Separate	Local school Boards and Fducational fact-finding commission(EFC)	Parties may agree to mediation on request of either party fact-finding and recommendations by FFC.	N/P	Prohibited
Ohio	N/P	N/A	N/P	N/P	N/P	Prohibited
Oklahoma	Required	Separate	Local School Boards	Ad Hoc fact finding committee makes recommendations	N/P	Prohibited
Oregon	Required	Same	Public Employee Relations Board	Voluntary mediation, fact-finding, and arbitration.	Negotiable	May strike under certain conditions.
Pennsylvania	Requires	Same	Pennsylvania Labor Relations Board (PLRB)	Mediation by Pennsylvania Bureau of Mediation; PLRB appoints fact-finding panels which make recommendations.	Mandatory Arbitration	*
Rhode Island						
South Carolina	N/P	N/A	N/P	N/P	Appeal to county board and to the state board of Education.	Prohibited
South Dakota	Required	Same	Division of Labor Management Relations	State Labor Commission appoints fair hearing board for Advisory Arbitration Board decision appealed to a higher court.	Binding arbitration by director of Labor Management Relations	Prohibited
Tennessee	N/P	N/A	N/P	N/P	N/P	Prohibited
Texas	May meet and confer	Separate	N/P	N/P	N/P	Prohibited
Utah	May meet and confer	N/A	Local School Board	N/P	N/P	N/P
Vermont	Required	Separate	N/P	Mediation and fact-finding--fact-finding committee makes an advisory report which is made public	Negotiable	If there is a clear and presen danger to the educational process an injunction must be issued.
Virginia	May bargain	N/A	N/P	N/P	N/P	Prohibited

* Pennsylvania strike policy - Limited right to strike unless or until such strike creates a clear and present danger or threat to the health, safety, or welfare of the public. Court determines whether such strike is a danger.

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Categories**	Bargaining Rights 1	Teacher Treated 2	Administrative Agency 3	Impasse Procedures 4	Grievance Procedures 5	Strikes 6
Washington	Required	Separate	N/P	Must be negotiated	Must be negotiated	Prohibited
West Virginia	N/P	N/A	N/P	N/P	N/P	N/P
Wisconsin	Required	Same	Wisconsin Employment Relations Commission WERC	WERC appoints mediators, investigator to decide whether fact-finding shall be initiated	Parties may negotiate grievance procedure	Prohibited
Wyoming	N/P	N/A	N/P	N/P	N/P	N/P

* This table is a reproduction of the information gathered from the legal section of the survey instruments. Those states left blank did not respond to the legal section of this survey instrument.

N/P = no provision
N/A = Not applicable

** Description of catagories and their possible responses

Catagory 1 Bargaining Rights - the extent of the teachers' rights as a group to require their school board to bargain collecting over teacher terms and condition of employment. The following is a list of possible responses for this catagory.

a) Required - school boards must bargain collectively, if their teachers form a group and vote to become represented by a certain organization. Also, the school boards must reorganize such organizations and negotiate in good faith with the representatives of these organizations over teacher terms and conditions of employment.
b) May bargain collectively - Teachers as a group may not legally require school boards to bargain collectively. But, if a school board wishes, it may bargain collectively with a teachers' group over teacher terms and conditions of employment.
c) May meet and confer - teachers and school boards may jointly discuss teacher terms and conditions of employment, if the boards wish to do so. There the emphasis is on discussion and not on collective bargaining.
d) Right to make proposals - teachers may present proposals but they may not require school boards to bargain collectively; nor may school boards agree to bargain collectively. The school boards, in many cases, are not allowed to relinquish any decision making powers.
e) Required to meet and confer - this response is unique to California only and is similar in practice to required to bargain collectively.

Catagory 2 Teachers Treated - This is a special catagory which is not a measure of a particular kind of legal provision like the other catagories in this table. Instead, this catagory measures whether or not the overall basic legal treatment of teachers in states' laws is separate from or the same as the legal treatment of other public employees such as policemen and firemen. The following is a list of the three possible responses to this category.

a) Same = teachers are basically treated the same under the laws as all other state public employees.
b) Separate = teachers are basically treated as a separate class of state public employee under the laws.
c) N/A = not applicable to this particular State.

Catagory 3 Administrative Agency - The agency or a combination of state agencies who is responsible for the administration of secondary and elementary teacher collective bargaining. The following is a list of the possible state agency responses to this catagory and a general description of each agency type. Keep in mind that these are general descriptions and that particular state agencies may differ from these descriptions.

*** a) Public Employment Relations Board or Commission = A specialized state agency who administers over state public sector collective bargaining. Note, occasionally there is reference to a bureau of mediation or an industrial relations court in the responses to this catagory. These are very specialized state entities whose major purpose is to help prevent or stop work stoppages or strikes in the public sector. In this capacity they perform many of the same roles as a Public Employment Relations board. For this reason they are included in the PEA statistics below.

b) Local School Board = the group of people who are responsible to the tax payers for administration of the schools within a particular school district.
c) State Educational Agency = the state agency which is responsible for the central administration of all school districts within a state.

Catagory 4 Impasse Procedures - The procedures whereby teacher strikes or work stoppages are prevented or stopped. The following is a list of such procedures.
a) fact-finding = the process of determination of facts and recommendations for settlement by a neutral party(s).

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b) mediation = use of third party(s) to propose compromises, or suggest alternative procedures or solutions.
c) arbitration = the gathering and weighing of facts and evidence and the presentation of a proposed solution, often made public, which is then ratified by the parties.
d) binding arbitration = same as c) except solution is binding on parties

Catagory 5 Grievance Procedures = procedures whereby a teacher or a group of teachers can receive redress for complaints about individual treatment or complaints over the interpretation of the collective bargaining contract. These procedures are almost identical to impasse procedures. Therefore, refer to category 4 for the description of these procedures.

Category 6 strikes - a measurement of strike policy

Summary of Statistics

Total number of states who responded to the legal section of the survey = 46

Bargaining Rights
1) Required to bargain collectively = 23
2) May bargain collectively = 5
3) May meet and confer = 3
4) Right to make proposals = 1
5) Required to meet and confer = 1
6) No provision = 13

Teachers treated
1) Teachers treated the same as other state public employees = 11
2) Teachers treated as a separate class of state public employees = 14
3) Not-applicable = 21

Administrative Agency
*** 1) Public Employment Relations Agency (PEA) = 12
2) Local school board (LB) = 4
3) State Educational Agency (E) = 1
4) E and LB = 2
5) Special Educational employment board separate from the educational agency = 1
6) Special Educational commission and LB = 1
7) No provision = 25

Impasse Procedures
1) States who have impasse procedures = 24

Grievance Procedures
1) States who have provision for grievance procedures = 15

Strikes
Prohibited = 30
Limited right to strike = 5
no provision = 11

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or negotiate with teachers' groups over terms and conditions of employment. In one-half of the responding states, 23 of 46, boards are required to bargain collectively with teachers' groups. Thirteen of 46 have no legal provision for requiring boards to bargain or negotiate. Between these two extremes, five states permit collective bargaining; three permit teachers to meet and confer with boards, one requires boards to meet and confer, and in one state teachers have the right to make proposals to boards.

Treatment of Teachers

This is not a legal provision as such, but attempts to determine whether states that have teacher bargaining rights perceive teachers as a separate class or place them in the same public-employee group as firemen, policemen, and nurses. In 21 responses this distinction was not applicable. In the remaining states, slightly more than half, (14), treated teachers as a separate class of public employee, while 11 viewed teachers as belonging to the same class as other public employees.

Administrative Agency

Approximately half of the responding states indicated that an agency or combination of agencies had been designated to administer provisions of teacher collective bargaining laws. Of these 21, 12 designated a public employment relations board or commission - a specialized state agency administering public sector collective negotiations; four utilized local school boards; one, the SEA; two, a combination of SEA and local boards; one,

a special educational employment agency and the local board. Table 2 depicts these administrative agencies.

More than half the respondents (25) made no provision for an administrative agency. (It should be noted that 13 of the responding states have no legal provision for teacher bargaining rights in the first place.)

Impasse and Grievance Procedures

Twenty-two states reported no legal provision for impasse procedures - the means by which strikes or work stoppages are prevented. Thirty-one states have no provision for grievance procedures--the means whereby individual teachers or groups of teachers can receive redress for complaints about individual treatment or interpretation of contracts.

Table 3 presents detailed information about the provisions that were reported. Twenty-five states reported provision for impasse resolution. Two states used fact-finding alone; three used mediation exclusively; one, arbitration only eight, fact-finding and mediation; one, fact-finding and arbitration; one, mediation and arbitration, and six use all three methods of resolving impasses.

Fifteen states reported grievance procedures, indicating the grievances must be negotitated, or are subject to arbitration, or to mediation. The relative paucity of grievance procedures in state law should not give the impression the topic is unimportant. While states constitutionally are responsible for education, civil rights are the responsibility of the Federal government. Thus individual grievances, especially those involving some aspect of "due process," are more likely to be subject to federal court jurisdiction than to state statutes covering education.

Table 2

Teacher Collective Bargaining Administrative Agencies in State Law

1) States with public Employment Relations Board (commission) administrations

Hawaii
Indiana
Maine
Massachusetts
Michigan
Minnesota
Nevada
New Jersey
New York
Oregon
Pennsylvania
South Dakota *
Wisconsin

2) States with State Education Agency Administration

Maryland

3) States with both State Education agencies and local school board administrations

Connecticut
North Dakota *

4) States with local school board administrations

Delaware
Montana
Oklahoma
Utah

*closely resembling the category designed

Table 3
PROCEDURES SPECIFIED IN STATE LAW

Respondent states which have grievance procedures and/or impasse procedures	Impasse Procedures: Fact Finding 1 — The process of determination of facts and recommendations for settlement by a neutral party(s).	Impasse Procedures: Mediation 2 — Use of third party(s) to propose compromises, or suggest alternative solutions or procedures.	Impasse Procedures: Arbitration 3 — The gathering and weighing of facts and evidence and the presentation of a proposed solution which is then ratified by the parties	Grievance Procedures: Mediation 5 See #2 for definition	Grievance Procedures: Arbitration 6 See #3 for definition
California	x				
Connecticut		x			
Delaware	x	x			
Hawaii	x	x	x*	may negotiate grievance procedures	
Idaho	x	x			
Indiana	x	x	x		
Maine	x	x	x		x*
Maryland		x			
Massachusetts	x		x	Massachusetts State Board of Arbitration	
Michigan	x	x	x*	x	
Minnesota		x	x		x*
Montana		x**			
Nebraska	x			Grievance procedures are negotiable	
Nevada	x	x	x		
New Jersey	x	x		New Jersey grievance procedures must be negotiated	
New York	x	x	x	Municipal court decision	
North Dakota	x	x			
Oklahoma	x				
Oregon	x	x	x	Grievance procedures are negotiable	
Pennsylvania	x	x		Mandatory arbitration x	
South Carolina				Appeal to a county board and to the State Board of Education	
South Dakota			x		x*
Vermont	x	x		Grievance procedures are negotiable	
Washington	impasse procedures must be negotiated			Grievance procedures must be negotiated	
Wisconsin	x	x		Grievance procedures are negotiable	
Total = 25	n=18	n=18	n=9	n=1	n=4

States which have one or more impasse procedures
Fact finding and mediation = 8
Fact Finding and arbitration = 1
Mediation and arbitration = 1
Fact Finding, mediation, and arbitration = 6

* Binding arbitration = arbitration which requires the parties to abide by the decision of the arbitrator
** Closely resembling the category designated

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State Similarities or Clusters

While Table 1 indicated substantial variations among the legal provisions of states, some grouping or clustering is useful to simplify the diversity. Using two legal provisions, type of bargaining rights and type of administrative agency, data in Table 1 can be extracted to develop Table 4, Distribution of Legal Provisions.

This grouping, or set of clusters about major provisions, may be viewed as a set of legal relationships of board-teacher groups proceeding from simple to complex. Such a continuum, or set of clusters, is helpful for at least two reasons. The first benefit of such a conceptualization comes from viewing teacher collective negotiations problems as sets of problems. That is, each cluster has a set of problems which the states in the cluster have in common but which tend not to be shared with states in other clusters. Rather than attempting to find one teacher collective negotiations solution for all states, one might be advised to seek six answers, corresponding to the six clusters.

A second advantage of the cluster concept is to view the set of clusters as a continuum. As a state develops more legal provisions, it would move from left to right on the continuum. It is probable that states with no legal provisions will take the incremental step of permitting negotiations as a first effort in developing some active policy. Similarly, states in central clusters would be seen as moving to some more complex cluster. California and Illinois are examples of states presently in a dynamic situation relative to the continuum.

The proposed continuum should be viewed as time specific and the cluster containing states with the most elaborate provisions may not be last position on the continuum. That is, alternatives to existing patterns of legal provisions may be evolving.

Table 4

DIDSTRIBUTION OF STATES RELATIVE TO LEGAL PROVISIONS
OF TEACHER COLLECTIVE NEGOTIATIONS

No Legal Provisions			Complex Legal Provisions	
No Provision	"Meet and Confer" and "Right to Make Proposals"	Permissive Bargaining Rights	Required Bargaining Rights; Administration Other than PERB	Required Bargaining Rights; Administration by PERB
Alabama	California	Illinois	Connecticut	Hawaii
Arizona	Missouri	Iowa	Delaware	Indiana
Colorado	Nebraska	Kentucky	Florida	Maine
Washington, D.C.	Utah	Virginia	Idaho	Massachusetts
Louisiana			Maryland	Michigan
Mississippi			Montana	Minnesota
New Hampshire			New Mexico	Nevada
North Carolina			North Dakota	New Jersey
Ohio			Oklahoma	New York
South Carolina			Vermont	Oregon
Tennessee			Washington	Pennsylvania
West Virginia				South Dakota
Wyoming				Wisconsin

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Part II

SEA Roles In Teacher Collective Negotiations

Having described the legal provisions that determine the relationships between local boards and teachers, the study now focuses on the roles of SEAs in the arena of teacher collective negotiations. Three basic questions are asked:

1. What roles do SEAs play in teacher collective negotiations?
2. To what extent do SEAs assume these roles?
3. What roles do other state agencies assume?

To answer these questions, 25 specific activities were listed and grouped into roles categories. The categories and an example from each are presented below. The complete list of questions can be found in Table 5.

Role Category	Selected Example
Administrative	Conducts teacher representation election.
Direct Involvement	Act of a mediator
Regulatory	Act to cut off state funds to districts closed because of strikes or work
Informational	Provide state-wide information on teachers' salaries
Advisement	Give advice to school boards during negotiations disputes.
Policy Development	Develop position papers, promulgate, regulations, or submit legislation affecting teacher collective negotiations.
Communications	Make phone calls or pay personal visits to those involved in a dispute.

Table 5 also indicates the affirmative responses to questions about the performance of each activity of SEAs and other state agencies, such as public employment relations board, or similar commissions (PEAs).

The legal basis for each role category receiving an affirmative response was requested. Table 6 presents data on the legal basis of agency activities.

Table 5
Analysis of Responses to surveyed state agency Roles

Surveyed Roles	All state Agencies N=52		State Educational Agencies N=43		State Public Employment Agencies N=9	
	% of yes responses to total responses	Number of yes responses	% of yes responses to total S.E.A. responses	Number of yes responses	% of yes responses to total P.E.A. responses	Number of yes responses
Administrative Roles:						
Conduct local teacher representation elections. Hold or make determination in teacher representation matters.	17.31	9	0	0	100	9
	21.15	11	4.65	2	100	9
Direct Involvement Roles:						
Determine the size of the collective neg. units.	11.54	6	0	0	66.67	6
Determine the geographic boundaries of the Collective negotiations units.	9.62	5	0	0	55.56	5
Determine which issues are legally negotiable	17.31	9	2.33	1	88.89	8
Determine who may be a member of a formally organized teacher negotiating group.	13.46	7	4.65	2	55.56	5
Act as a mediator	25.0	13	13.62	6	77.78	7
Act as an arbitrator	5.77	3	0	0	33.33	3
Act as a fact finder	17.31	9	11.63	5	44.44	4
Provide services to school boards involved in collective negotiations dispute	21.15	11	18.6	8	33.33	3
Issue public announcements or press releases which attempt to influence outcomes of specific collective negotiations	5.77	3	4.65	2	11.11	1
Regulatory Roles:						
Act to cut off funds to district whose schools are closed because of strikes	5.77	3	6.98	3	0	0
Bring suit to force the opening of schools by strikes or work stoppage	5.77	3	4.65	2	11.11	1
Act to revoke the credentials of teachers who refuse to end a strike or work stoppage	0	0	0	0	0	0
Informational Roles:						
Provide information concerning teacher salaries	36.54	19	39.53	17	22.22	2
Provide information concerning pupil-teacher ratios	34.62	18	37.21	16	22.22	2
Provide information concerning tax bond referenda	34.62	18	37.21	16	22.22	2
Provide information concerning assessed evaluation	30.77	16	32.56	14	22.22	2
Advisement Roles:						
Give advice only to school boards during collective negotiations disputes	3.85	2	4.65	2	0	0
Give advice only to teachers during collective negotiation disputes	0	0	0	0	0	0
Give advice to both teachers and boards during disputes	36.54	19	30.23	13	66.67	6
Give advice to the governor's staff. or legislators on negotiation disputes	40.38	21	34.88	15	66.67	6
Policy Development Roles:						
Develop position papers, promulgate regulations or submit legislation appicting the collective neg. of teachers	30.77	16	25.58	11	55.56	5
Hold meetings with interested parties in attempt to develop policy affecting teacher collective negot.	40.38	21	30.23	13	88.89	8
Communications Role:						
Make Phone calls, send letters or make personnal visits to those involved in a dispute	44.23	23	37.21	16	77.77	7

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Table 6

Statutory Authority for State Agency Roles

Role	Role Performance Under statutory authority
Fact Finder	7
Mediator	11
Arbitrator	4
Determination of legally negotiable issues	7
Determination of who may be a member of a teacher negotiating group	3

Only five of the activities were indicated as being mandated, yet a comparison of Tables 5 and 6 indicates these mandated activities represent only a small portion of all the activities of state agencies. Most activities, then, must be performed in the absence of specific statutory mandate.

Data from Table 5 has answered two of the questions raised at the beginning of this section. The roles that SEAs assume, and the roles other state agencies assume, as indicated by the respondents to the survey, in teacher collective negotiations have been qualitiatively addressed.

In order to answer the remaining question, "To what extent do SEAs assume these roles?", the affirmative role response information is presented by states in Table 7. An X indicates involvement in at least one activity in a category for an SEA, and a 0, a similar involvement for some other state agency.

SEAs are most extensively involved in informational roles, 20; advisement roles, 19; communications roles, 17; policy development roles, 15; and direct involvement roles, 13. SEAs tended not to be involved in regulatory roles, five; and administrative roles, only two. On the other hand all responding PEAs were involved in administrative, direct involvement, and policy development roles. Many were active in communications roles, seven; and advisement roles, six. PEAs tended not to be involved in informational, two, or regulatory, one roles.

A broad comparison of the roles played by SEAs and those by PEAs indicates SEAs tend to be more involved in informational and advisement roles. PEAs tend to dominate the administrative role while both are involved somewhat equally in direct involvement, policy development, communications roles. Neither is extensively in regulatory roles.

Table 7

State agency involvement in role categories

Agencies	Roles[1]													
	Administrative		Direct Involvement		Informational		Regulatory		Policy Development		Advisement		Communication	
Alabama					X		X						X	
Arizona					X									
California					X									
Connecticut	X		X		X		X		X		X		X	
District of Columbia					X		X		X		X		X	
Florida			X		X				X		X		X	
Hawaii		0	X	0	X			0	X	0	X			
Idaho			X		X				X		X		X	
Illinois			X		X		X		X		X		X	
Indiana		0		0		0		0		0		0		0
Kentucky													X	
Maine		0		0						0		0		0
Maryland	X		X		X				X		X		X	
Massachusetts		0	X	0						0				
Michigan		0	X	0	X					0	X	0	X	0
Minnesota		0		0						0		0		0
New Hampshire											X			
New Mexico		0		0	X	0			X	0		0		0
New York		0	X	0		0			X	0	X		X	0
North Dakota					X						X			
Ohio					X						X		X	
Oklahoma					X						X		X	
Oregon					X				X		X		X	
Pennsylvania									X		X		X	
Rhode Island					X									
South Carolina											X			
South Dakota									X		X			
Texas			X		X				X		X		X	
Utah					X				X					
Washington			X						X		X		X	
Wisconsin		0		0						0		0		0
Wyoming			X		X		X						X	
	2	9	13	9	20	2	5	1	15	9	19	6	17	7

1) These role categories correspond to table 7. X=State Education Agency role. 0=State Public Employment Agency role.

Cases in which both SEA and PEA have same role=12.

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Table 8

Roles of State Agencies When Two Agencies Are Active

State	Roles															
	Administrative		Direct Involvement		Informational		Regulatory		Policy Development		Advisement		Communication	
Hawaii		0	X	0	X			0	X	0	X			
Indiana		0	X	0						0		0		0
Massachusetts		0	X	0						0				0
Michigan		0	X	0	X					0	X	0	X	0
New Mexico		0		0	X	0			X	0		0		0
New York		0	X	0		0			X	0	X		X	0
	0	6	5	6	3	2	0	1	3	6	3	3	2	4

X=SEA role
O=REA role

Totals O=27
X=16

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An additonal interesting role analysis can be made in the case of states which reported role activity for both kind of agencies. This information is contained in Table 8. The only additon to the comments just noted on role comparisons, above, would be the absence of SEA administrative roles in the presence of an agency specifically established to administer teacher collective bargaining.

This section has focused on roles played by SEAs, and other state agencies, in the area of teacher collective bargaining. SEAs assume a variety of roles, particularly informal roles such as informational, advisement, and communications. SEAs are also active, but to a lesser extent, in direct involvement, and policy development roles. In a few states SEAs are even active in administrative and regulatory roles. The presence of a PEA to specifically administer teacher collective negotiations does not eliminate SEA involvement in the arena.

Part 111

Findings and Conclusions

The legal status of teacher collective negotiations varies widely among the states. In one state, until recently, the right of public employees to negotiate has been held as being against the public interest. Other states have been leaders in labor relations developments and have accorded teachers, and other public sector employees, rights corresponding to those achieved by private sector employees, and have established elaborate, formal procedures and agencies to administer teacher collective negotiations laws.

In spite of the great diversity, however, it is possible to group, or establish clusters, or states with regards to such legal provisions. An examination of such clusters indicates the possibility of generating a continuum or spectrum of legal relationships ranging from no legal provisions through intermediate positions of "meet and confer" and permissive collective negotiations to a position of mandating teacher collective negotiations and setting up a special or general administrative agency.

The absence of formal legal provisions for negotiating should not be equated with the absence of other mechanisms for achieving teacher-management interaction. An additional study is strongly indicated to identify and describe the existance and effectiveness of other informal mechanisms, such as school welfare committees, which allow substantial teacher input into decisions affecting their working conditions.

The findings of this study of SEA roles in teacher collective negotiations suggest SEAs uniformly assume informational roles regardless of the legal status of such negotiations. As the legal status of teacher collective bargaining becomes

more elaborate and specific, SEAs tend to assume additional roles of direct involvement, policy development, advisement, and communications.

Even when other state agencies specifically administer teacher collective negotiations, SEAs assume a very active direct involvement role, and, to lesser extents, policy development and advisement roles.

Conclusion

The legal status of teacher collective negotiations varies substantially among the states. However, clusters of states can be seen around a few variables. These clusters can further be viewed as positions on a continuum. SEAs assume some roles in most states, regardless of the legal status, and assume more roles as the legal status becomes more elaborate. SEAs continue to perform substantial roles even in the presence of other state agencies specifically charged to administer teacher negotiations laws. SEAs also contribute substantially to the dynamic of legal status change through policy development roles.

This study indicates SEAs are significant actors in the teacher collective negotiations arena; in general state-level functions and in specific local situations, in the absence of formal, legal provisions, and even in the presence of other, specifically charged state agencies. The contribution of SEAs to existing and evolving policy developments is worthy of continued study.

APPENDIX A

State of Wisconsin DEPARTMENT OF PUBLIC INSTRUCTION

Barbara Thompson, Ph.D.
State Superintendent

Dwight M. Stevens, Ph.D.
Deputy State Superintendent

DIVISION FOR MANAGEMENT & PLANNING SERVICES
Archie A. Buchmiller, Ph.D., Assistant Superintendent

March 25, 1974

Dr. Jon Peterson
OSPI Research Section
216 East Monroe Street
Springfield, Illinois 62706

Dear Jon:

This letter responds to your recent inquiry as to the role a state educational agency can play in collective bargaining procedures of local school districts when no specified role is established for the agency. As I indicated to you, I can only bring to bear my own experiences as deputy state superintendent between the years of 1966 and 1973 in responding to your questions.

As you know, the State of Wisconsin has had permissive and mandatory legislation for collective bargaining for public employees for several years. Assistance in collective bargaining to public and private employer/employee groups is the legally constituted responsibility of the Wisconsin Employment Relations Commission (WERC). This commission is responsible for technical assistance, enforcement, and the mediation and arbitration of labor disputes between employer/employee units. As a result of the legislative mandate to the WERC, there is no explicit role in the collective bargaining process implied for the Wisconsin Department of Public Instruction or the State Superintendent of Public Instruction. However, our history in Wisconsin has already dramatized the fact that the lack of such authority has not prevented collective bargaining issues from the local school districts coming to the state educational agency nor has it deterred the state agency from becoming involved in school district labor disputes during the last three or four years. I have been directly involved in three major strikes and in numerous conferences and telephone counseling sessions to provide information and clarify issues. In most cases, direct intervention by the state superintendent or his designated agent has been made only upon the request for all three principal parties -- employer, employee, and WERC. In these cases, a combination role of fact finding, mediation, arbitration, and educational diplomacy brought about settlements which could not be achieved with normal procedures.

126 Langdon Street, Madison, Wisconsin 53702

First of all, let me speak to the direct involvement of the state superintendent as an agent. The involvement of the Wisconsin Department of Public Instruction in three major strikes prior to July 1, 1973 in which I personally became involved found the use of an unconventional role a facilitating factor in achieving agreement. As you are aware, there is a certain amount of conventional role playing which accompanies the usual adversary processes of collective bargaining. A gambit from one side requires a corresponding move from the other. When these processes break down, a strike or impasse may occur, and under these circumstances, the unconventional role helps bring the parties back together. I would define the term unconventional role as a person who comes in as an arbitrator, a state official with implied police power, one who adopts a very direct, persuasive position on a number of issues and uses the suggestion of subtle administrative power in order to come to grips directly with the issues separating the two parties. This kind of role frequently permits both parties to adopt their responses to the third party and thus set up a new climate between the two parties which facilitates coming to an agreement. As you might suspect, it can be hard on the third party.

In addition, the state educational agency becomes involved in numerous informal ways in the affairs of local school district collective bargaining negotiations. Among these are:

1. State and local educational associations and school boards frequently inquire and receive relevant information from the state educational agency about school district operations that is useful in negotiations and collective bargaining. Examples of such information relate to the payment of state aids, cost per pupil, salaries per teacher, professional-student ratios, days in the school year, tax rates, wealth of school districts (equalized valuation), school district instructional policies, state curriculum requirements, etc. This base of information many times has greater credibility than similar information generated by one or both of the parties with their own research and analytic processes.

2. One of the most frequent issues on which questions are raised with the state educational agency during labor strife is the interpretation of the number of days a school must be in session in order to receive state aids in Wisconsin. At the very outset of almost any labor difficulty, early clarification is sought from the state office by both the school board and teacher associations in respect to the definition of a school day, a day taught, and how long teachers and students must be present in order to count it as a school day or as a day taught. Such definitions are very critical to determine required makeup days for state aid eligibility, countable holidays, the level of pupils in attendance which will satisfy state law for fulfilling compulsory attendance, to name only a few.

3. The preceding circumstances point up the fact that early informational interactions with members of both sides can frequently prevent the development of circumstances which can lead to an impasse based on differences of opinion as to the interpretation of rules or the accuracy of factual data. If the state educational agency is open to early communication to both sides with information and interpretations in their relationships with each other, this can be greatly minimized. In fact, the collection of information and wide dissemination of such by the state educational agency which is directly relevant to collective bargaining issues in respect to wages and working conditions is of substantial importance in helping maintain effective statewide collective bargaining procedures between employer/employee groups. In my judgment, the investment of funds for the collection, analysis, and dissemination of such data is minimal when compared to the loss of educational opportunity in the case of long, drawn out teacher work stoppages.

I believe there is an important influential role for the state educational agency in collective bargaining processes even if the law does not provide for legal roles and even when a different state agency is required to carry out the formal aspects of labor relations processes. It seems to me the state educational agency should always appear as a "friend of the court" and "ombudsman for children" in an attempt to clarify information and place educational issues in proper public perspective. This third party role can be of benefit before situations become so difficult that a work stoppage is the only answer to the ego needs of one or both parties and the militant rhetoric that leads to a labor stoppage.

I trust these comments relate to your suggestions as to some things a state agency without legal authority can do in the area of school district employer/employee labor relations. Quite frankly, I don't see how the state educational agency can remain aloof from the process.

Sincerely,

Archie A. Buchmiller
Assistant State Superintendent

bs

APPENDIX B

Survey of State Educational Agency
Roles in Teacher Collective Negotiations

(Name of State Educational Agency)

(Address of Agency)

(Respondent's Name) (Title and Position)

(State) (Respondent's Phone)

What is the full-time equivalent professional staff in your State Education Agency (SEA) as of June 30, 1973? _____

Instructions:

The following survey is designed to identify State Educational Agency's role activities in teacher-board collective negotiations. The major role headings underlined are not all-inclusive but meant as general groupings for organizational purposes. Please respond in terms of the roles generally performed by you State agency. Also, add comments whenever you wish.

Indicate for each question by placing an "x" in the proper box, whether or not your State agency normally engages in a certain role activity. Where allocation of professional staff time is requested, please indicate by full-time equivalent (FTE) or a fraction thereof as of June 30, 1973.

A. Administrative Roles

1. Does the SEA conduct local teacher representation elections? ☐ Yes ☐ No

2. Does the SEA hold hearings or make determinations in teacher representation matters? ☐ Yes ☐ No

3. Into what other administrative type roles does the SEA enter?

_____

_____

4. What is the number of professional FTE(s) involved in such administrative roles as of June 30, 1973? _____

B. Direct Involvement Roles

1. Does the SEA determine the size of the collective negotiation unit? ☐ Yes ☐ No

2. Does the SEA determine the geographic boundaries of the collective negotiation unit? ☐ Yes ☐ No

3. Do officials in the SEA issue public announcements or press releases which attempt to influence outcomes of specific collective negotiations? ☐ Yes ☐ No

4. Does the SEA provide services to school boards involved in collective negotiation disputes? (e.g., provisions of legal services to less wealthy districts) ☐ Yes ☐ No

5. Does the SEA act as a mediator? ☐ Yes ☐ No

6. If yes, is SEA mediation under statutory authority? ☐ Yes ☐ No

7. Does the SEA act as an arbitrator? ☐ Yes ☐ No

8. If yes, is SEA arbitration under statutory authority? ☐ Yes ☐ No

9. Does the SEA act as a fact finder? ☐ Yes ☐ No

10. If yes, is SEA fact finding under statutory authority? ☐ Yes ☐ No

11. Does the SEA determine which issues are legally negotiable? ☐ Yes ☐ No

12. Are the legally negotiable issues defined by your State law? (Case law and statutory law) ☐ Yes ☐ No

13. Are the issues that may be pushed to impasse defined by your State law? ☐ Yes ☐ No

14. Does your SEA determine who may be a member of a formally organized teacher negotiating group? ☐ Yes ☐ No

15. Is the determination of who may be a member of a teacher group under statutory authority? ☐ Yes ☐ No

16. What other such direct roles does your State SEA engage in? Please specify _____

_____

17. Circle those roles in question 16 which are under statutory authority.

18. What were the number of professional FTE's involved in such direct roles as of June 30, 1973? _____

C. Informational Role

1. Does the SEA ordinarily provide information concerning teachers salaries to the parties involved? ☐ Yes ☐ No

2. Does the SEA ordinarily provide information concerning pupil-teacher ratios to the parties involved? ☐ Yes ☐ No

3. Does the SEA ordinarily provide information concerning tax rates and bond referenda? ☐ Yes ☐ No

4. Does the SEA ordinarily provide information concerning assessed valuation? ☐ Yes ☐ No

5. Please indicate other such regulatory activities in which your SEA engages.

_____

_____

6. What is the number of professional FTE's who were involved in such informational roles as of June 30, 1973? _____

_____

D. Regulatory Role

1. Does the SEA act to cut off funds to districts whose schools are closed because of strikes or work stoppages? ☐ Yes ☐ No

2. Do the laws of the State operate to reduce the amount of State aid to local districts when the schools are closed? ☐ Yes ☐ No

3. Does the SEA bring suit to force the opening of schools closed by strikes or work stoppages? ☐ Yes ☐ No

4. Does the SEA act to revoke the credentials of teachers who refuse to end a strike or work stoppages? ☐ Yes ☐ No

5. Please indicate other such regulatory activities in which your SEA engages.

_____

_____

6. How many professional FTE's are involved in such regulatory roles as of June 30, 1973? _____

_____

E. Policy Development Role

1. Does the SEA develop position papers, promulgate regulations or submit legislation affecting the collective negotiations of teachers? ☐ Yes ☐ No

2. Does the SEA participate in conferences, hold meetings with interested parties etc. in attempts to develop policy affecting teacher collective negotiations? ☐ Yes ☐ No

3. Please specify other policy development activities in which your SEA engages.

_____

_____

4. How many professional FTE's are involved in such policy development roles as of June 30, 1973? _____

F. Advisement Role

1. Does the SEA give advice only to boards during collective negotiation disputes? ☐ Yes ☐ No

2. Does the SEA give advice only to teachers during collective negotiation disputes? ☐ Yes ☐ No

3. Does your SEA give advice to both teachers and boards during disputes? ☐ Yes ☐ No

4. Does your SEA give advice to members of the Governor's staff or to Legislators on negotiation disputes? ☐ Yes ☐ No

5. Please list other such advisement activities in which your SEA engages.

_____

_____

6. What is the number of professional FTE's involved in these advisement roles as of June 30, 1973? _____

G. Communication Role (where information is the prime objective)

1. Do SEA personnel make phone calls, send letters or make personal visits to those involved in a dispute? ☐ Yes ☐ No

2. Please specify other such communication activities in which your State SEA engages. _____

_____

H. **Please describe additional collective negotiations activities which your State Education Agency performs:**

I. **Describe any future plans your SEA may have to perform additional functions related to teacher collective negotiations. Also describe any plans you may have for adding professional staff and what duties this additional staff might perform relative to teacher collective negotiations. Also, it would be extremely helpful if you would include any printed material that explains your State laws and your State Education Agency's functions in teacher collective negotiations.**

J. **Please indicate whether the school districts in your State are fiscally independent (empowered to set their own local tax rates for school purposes) or fiscally dependent (tax rates are set by an agency other than the school board)?**

☐ **Fiscally independent**

☐ **Fiscally dependent**

☐ **A combination of the two. Please describe this combination of districts.**

K. If any other agencies in your State perform any of the role activities discussed in this questionnaire, please list them below. A similar questionnaire will be mailed to these agencies.

(Agency Name) (Address)

(Chief Officer's Name) (Officer's Title)

Thank you for your help by completing this survey. Please return it to:

Dr. Jon M. Peterson
Research Section - OSPI
216 East Monroe Street
Springfield, Illinois 62706

BY

NOVEMBER 15, 1973

Interstate Project
for State Planning
and Program Consolidation

Participating States	Chief State School Officers	Policy Committee
Illinois	Dr. Michael Bakalis	Dr. Emmett Slingsby
Indiana	Dr. Harold H. Negley	Mr. Ray Slaby
Michigan	Dr. John Porter	Mr. Alex Canja
Minnesota	Mr. Howard Casmey	Mr. Gregory J. Waddick
Ohio	Dr. Martin W. Essex	Dr. Paul Spayde
Wisconsin	Dr. Barbara Thompson	Dr. Archie Buchmiller

Dr. Robb L. Shanks
Project Director

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Wisconsin Department of Public Instruction
126 Langdon Street
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